

General Information Letter: Except for the special exemptions allowed for Illinois Prepaid Tuition Program and College Savings Pool distributions, Illinois income tax treatment of IRC Section 529 college savings plans follows federal income tax treatment.

March 14, 2001

Dear:

This is in response to your letter of February 1, 2001 in which you request a private letter ruling. Department rules require that the Department issue two types of rulings, private letter rulings and general information letters. The Department has adopted rules concerning letter rulings and other information issued by the Department (*2 Ill. Adm. Code 1200*). We would be happy to send you a copy of those rules at your request.

Although you have not requested either type of ruling on behalf of your company, the nature of your questions and the information you provided necessitates that we respond in the form of general information letter. A general information letter, which is designed to provide general information, is not a ruling that is binding on the Department.

In your letter you wrote:

I am writing to obtain a general information letter regarding Internal Revenue Code 529 college savings plan. My request in specific is based on a plan offered by xxxxxxxxxxxxxxxx known as the "xxxxxxxxxxxxxxxxxxxx". This plan is administered through the xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx xxxxxxxxxxxxxxxxxxxxxxxx. My questions are:

1. Do the earnings (Long and Short term capital gain, and income) of an IRC 529 plan administered by a state other than Illinois receive tax deferred treatment in Illinois while invested in the plan?
2. Upon withdrawal will the tax liability be to the contributors or the beneficiary?

I have enclosed plan materials supplied by xxxxxxxxxxxxxxxx for your review.

DISCUSSION

For income tax purposes Illinois generally follows the federal government in IRC §529 plans. There are two cases involving qualified tuition plans where Illinois differs from the federal government. The Illinois Prepaid Tuition Program and income from the College Savings Pool are both designed to qualify as §529 plans. Chapter 86 Illinois Administrative Code §100.2470 (copy enclosed). However, in addition to contributions, both plans exempt *distributions* from Illinois income taxation by virtue of the statutes that created the plans. (See §100.2470). In all other respects Illinois administers §529 plans according to federal rules, regardless of the state which administers them.

As mentioned above, this is merely a general information letter and not a statement of policy and is not binding upon the Department. I hope that this has been helpful to you. The Department maintains a website, which can be accessed at www.revenue.state.il.us. If you have additional questions please feel free to contact me at the above address.

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Very Truly Yours,

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